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Division of Medicaid

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INFORMATIONAL LETTER #98-16

DATE: December 28, 1998

TO: ALL ADMINISTRATORS OF IDAHO'S:
HOSPITALS
NURSING FACILITIES
INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED
RESIDENTIAL CARE FACILITIES

FROM: JOHN W. HATHAWAY, Chief
Bureau of Facility Standards

SUBJECT: **REPORTING OF ABUSE, NEGLECT, OR EXPLOITATION**
IDAHO CODE, SECTION 39-5303

During the 1998 Idaho Legislative session, House Bill No. 721 was approved and signed by the Governor. This bill revised the requirements for reporting abuse, neglect, or exploitation of vulnerable adults described under Idaho Code, Section 39-5303. The revisions to the statute went into effect July 1, 1998.

Idaho Code, Section 39-5303 now states that:

“DUTY TO REPORT CASES OF ABUSE, NEGLECT, OR EXPLOITATION OF VULNERABLE ADULTS. (1) Any physician, nurse, employee of a public or private health facility, or a state licensed or certified residential facility serving vulnerable adults, medical examiner, dentist, ombudsman for the elderly, osteopath, optometrist, chiropractor, podiatrist, social worker, police officer, pharmacist, physical therapist, or home care worker who has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected, or exploited shall immediately report such information to the commission [Commission on Aging]. Provided, however, that skilled nursing facilities shall make reports required under this chapter to the department of health and

welfare. **When there is reasonable cause to believe that abuse or sexual assault has resulted in death or serious physical injury jeopardizing the life, health, or safety of a vulnerable adult, any person required to report under this section shall also report such information within four (4) hours to the appropriate law enforcement agency.**

“(2) Failure to report as provided under this section is a misdemeanor subject to punishment as provided in section 18-112, Idaho Code. If an employee at a state licensed or certified residential facility fails to report abuse or sexual assault that has resulted in death or serious physical injury jeopardizing the life, health, or safety of a vulnerable adult as provided under this section, the department shall also have the authority to:

- “a. Revoke the facility’s license and/or contract with the state to provide services;**
- “b. Deny payment;**
- “c. Assess and collect a civil monetary penalty with interest from the facility owner and/or facility administrator;**
- “d. Appoint temporary management;**
- “e. Close the facility and/or transfer residents to another certified facility;**
- “f. Direct a plan of correction;**
- “g. Ban admission of persons with a certain diagnoses or requiring specialized care;**
- “h. Ban all admissions to the facility;**
 - “(i) Assign monitors to the facility; or**
 - “(ii) Reduce the licensed bed capacity.**

“Any action taken by the department pursuant to this subsection shall be appealable as provided in chapter 52, title 67, Idaho Code.

“(3) Any person who makes any report pursuant to this chapter, or who testifies in any administrative or judicial proceeding arising from such report, or who is authorized to provide supportive or emergency services pursuant to the provisions of this chapter, shall be immune from any civil or criminal liability on account of such report, testimony, or provision of services, except that such immunity shall not extend to perjury, reports made in bad faith or with malicious purpose nor, in the case of provision of services, in the presence of gross negligence under the existing circumstances.”

While we anticipate such actions will rarely be necessary, please be aware of the Department's obligation and responsibility to apply the remedies described in this statute related to failure to report.

If you have questions regarding the law or this letter, please contact this office in Boise at (208) 334-6626.

JOHN W. HATHAWAY, Chief
Bureau of Facility Standards

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cc: Idaho Hospital Association
Idaho Health Care Association
Idaho Association of Community Options
Idaho Residential and Assisted Living Association
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